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PARTNERSHIP—CONVEYANCE OF REALTY.—Plaintiff and defendants entered into articles of copartnership for the general purposes of quarrying. The partnership was to continue for a period of ten years. Pursuant to their agreement, plaintiff and defendants contributed various amounts as firm capital, and purchased with the firm funds a strip of land containing a marble quarry. The land was conveyed to the partners in the proportion of "one-half undivided" to the plaintiff, and "one-quarter undivided" to each of the other partners, the deed reciting that it was made in "fulfillment of the partnership agreement." The business proving unprofitable, plaintiff sold his undivided half of the quarry to third parties; he now sues for an accounting and claims a share in the remaining one-half on the grounds that it was partnership property. *Held*, the quarry became the property of the individual partners as tenants in common. *Grant v. Bannister* (Cal. 1911) 118 Pac. 253.

The court based its decision on the fact that the partners intended that the property in question should be held in common rather than in partnership. The presumption from a deed of real estate to the individual members comprising a firm is that they hold as tenants in common. *Robinson Bank v. Miller*, 153 Ill. 244, 46 Am. St. Rep. 883, 27 L. R. A. 449; *Hendy v. Marsh*, 75 Cal. 566, 17 Pac. 702. It may be rebutted by the fact that the property was purchased with partnership funds. *Collumb v. Read*, 24 N. Y. 505, 513. But such fact is merely *prima facie*. *Providence v. Bullock*, 14 R. I. 353. The further fact that the land was used for partnership purposes is a strong argument in favor of its being considered partnership property. *Robertson v. Baker*, 11 Fla. 192; *Spalding v. Wilson*, 80 Ky. 589; *Hayes v. Treat*, 178 Pa. St. 310, 35 Atl. 987. It is then a question of the intention of the parties, *Fairchild v. Fairchild*, 64 N. Y. 471; *Pepper v. Pepper*, 24 Ill. App. 316; *Fall River Whaling Co. v. Borden*, 10 Cush. 458, 462; to be ascertained from the express or implied agreements of the partners. *Arnold v. Wainwright*, 6 Minn. 358, 80 Am. Dec. 448; *Murrell v. Mandelbaum*, 85 Tex. 22; from the manner in which the members of the firm have dealt with it, *Lindsay v. Race*, 103 Mich. 28, 61 N. W. 271; or from all the attending circumstances, *Flanagan v. Shuck*, 82 Ky. 617; *Page v. Thomas*, 43 Ohio St. 38, 54 Am. Rep. 788; *Collner v. Greig*, 137 Pa. St. 606, 21 Am. St. Rep. 899.

PARTNERSHIP — MINING — CREATION — DISSOLUTION.—Appellant and others were members of a statutory mining partnership, and employed plaintiff as a miner. Actual mining work was discontinued, but plaintiff, at the direction of one of the other partners, continued at the mine as watchman. In plaintiff's action to recover compensation for his services as watchman, appellant contended that the partnership was dissolved on the cessation of work in the mine, and his liability terminated at that time. *Held*, the partnership still continued. *Nielson v. Gross et al.* (Cal. 1911) 118 Pac. 725.

The *rationale* of the decision is that where the members of a statutory mining partnership suspend the operation of the mine intending to permanently abandon it, the partnership itself is *ipso facto* dissolved, but that here there was no proof of intention to abandon the work permanently. This is an application of the ordinary rule of trading partnerships that a dissolution

is worked by the accomplishment of the purpose for which it was created. *MECHEM, PART.*, § 234, citing: *Bohrer v. Drake*, 33 Minn. 408, 23 N. W. 840; *Bank v. Page*, 98 Ill. 109. In many respects mining partnerships are dissimilar to trading firms. A mining partnership exists where two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same. *Skillman v. Lachman*, 23 Cal. 198, 83 Am. Dec. 96; *Hartney v. Gosling*, 10 Wyo. 346, 68 Pac. 1118, 98 Am. St. Rep. 1005; *Childers v. Neely*, 47 W. Va. 70, 34 S. E. 828, 49 L. R. A. 468, 81 Am. St. Rep. 777; CAL. CIV. CODE, § 2511; MONT. CIV. CODE, § 2511. The statutes are in general merely declaratory of what is the law in the absence of legislation. *Congdon v. Olds*, 18 Mont. 487, 46 Pac. 261. There need be no express or implied agreement. *Duryea v. Burt*, 28 Cal. 569. *Contra: Dunham v. Loverock*, 158 Pa. St. 197, 27 Atl. 990, 38 Am. St. Rep. 838. But in the case of a trading partnership, a contract either express or implied is essential, and the law will not create the partnership or arbitrarily presume its existence. *Phillips v. Phillips*, 49 Ill. 437; *Re Gibbs' Estate*, 157 Pa. St. 59, 27 Atl. 383, 22 L. R. A. 276; *Wilson v. Cobb*, 28 N. J. Eq. 177. There is no *delectus personae* in a mining partnership. *Taylor v. Castle*, 42 Cal. 367. One of its members may convey his interest in the mine and business to a stranger without working a dissolution of the partnership. *Fereday v. Wightwick*, 1 Russ. & M. 49. Hence the limited powers and liabilities of the members of a mining firm. *Jones v. Clark*, 42 Cal. 180; *Pease v. Cole*, 53 Conn. 53, 22 Atl. 681. The death of a member does not work a dissolution. *Charles v. Eshleman*, 5 Colo. 114. The decision of the members owning a majority of the shares or interests, and not that of the majority of the persons, controls. *Dougherty v. Creary*, 30 Cal. 291, 293. The statute of frauds does not apply to a mining partnership. *Mortiz v. Lavelle*, 77 Cal. 10, 18 Pac. 803, 11 Am. St. Rep. 229. In deciding the principal case the court say that the evidence fails to disclose an intention to permanently abandon the working of the mine. Where the existence of a partnership at one time is proved, its existence will be presumed until its dissolution is shown. *Pursley v. Ramsey*, 31 Ga. 409; *Marks v. Sigler*, 3 Ohio St. 358. From this decision it would seem that although an intention is not necessary to create a mining partnership, yet an intention is indispensable to dissolve it. The case is of further interest as it applies to mining partnerships the ordinary rule respecting the dissolution of trading firms.

SALES—INTERPRETATION OF MICHIGAN BULK SALES ACT.—Laws of Michigan 1905, ch. 223, known as the Bulk Sales Act, provides that a sale in bulk of any part or the whole of a stock of merchandise, or merchandise and fixtures, otherwise than in the ordinary course of business, shall be void as against the seller's creditors, unless the seller and the purchaser comply with certain requirements as to an inventory of the goods sold and as to notice to the seller's creditors. Defendant purchased from X a funeral car, a casket wagon, some embalming tools, and "all caskets, steel vaults, robes and casket hardware" belonging to X and used in his undertaking business. No attempt was made to comply with the requirements of the statute, and plaintiff, a